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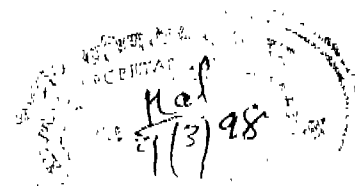
असाधारण
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 1997/Pausa 5, 1919 (Saka)

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) AMENDMENT SECOND ORDINANCE, 1997

No. 29 OF 1997

Promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance to amend the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

WHEREAS the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1997 was promulgated by the President on the 29th day of October, 1997;

AND WHEREAS the House of the People has been dissolved and a Bill to replace the said Ordinance could not be introduced in the House of the People;

AND WHEREAS the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prasar Bharati (Broadcasting Corporation of India) Amendment Second Ordinance, 1997.

(2) It shall deemed to have come into force on the 29th day of October, 1997.

Short title
and com-
mencement

Substitution
of new
section for
section 2.

2. For section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

25 of 1990.

Definitions.

'2. In this Act, unless the context otherwise requires,—

(a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Director-General, All India Radio of the Union Ministry of Information and Broadcasting;

(b) "appointed day" means the date appointed under section 3;

(c) "Board" means the Prasar Bharati Board;

(d) "broadcasting " means broadcasting by the Prasar Bharati;

(e) "Chairman" means the Chairman of the Corporation appointed under section 4;

(f) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;

(g) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which immediately before the appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;

(h) "elected Member" means a Member elected under section 3;

(i) "Executive Member" means the Executive Member appointed under section 4;

(j) "kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;

(k) "Member" means a Member of the Board;

(l) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;

(m) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;

(n) "notification" means a notification published in the Official Gazette;

(o) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an *ex officio* Member, the Nominated Member or an elected Member;

(p) "prescribed" means prescribed by rules made under this Act;

(q) "Recruitment Board" means a board established under sub-section (1) of section 10;

(r); "regulations" means regulations made by the Corporation under this Act;

(s) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;

(t) "year" means the financial year.

3. In section 3 of the principal Act,—

Amendment
of section 3.

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) The Board shall consist of—

(a) a Chairman;

(b) one Executive Member;

(c) six Part-time Members;

(d) Executive Director (Finance), *ex officio*;

(e) Executive Director (Personnel), *ex officio*;

(f) Director-General (Akashvani), *ex officio*;

(g) Director-General (Doordarshan), *ex officio*;

(h) one representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and

(i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves."

(b) in sub-section (6), the proviso shall be omitted.

4. In section 4 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment
of section 4.

"(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism."

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 6.

"6.(1) The Chairman shall be a Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member shall be a Whole-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(3) The term of office of the Part-time Members shall be six years.

(4) The term of office of an elected Member shall be six years or till he ceases to be an employee of the Corporation, whichever is earlier.

(5) The Executive Member shall be an employee of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed.

Term of
office,
conditions,
of service,
etc., of
Chairman
and other
Members.

(6) The Chairman shall be entitled to such allowances, honorarium and such other facilities as may be prescribed.

(7) Part-time Members shall be entitled to such allowances as may be prescribed.

(8) The Chairman, the Executive Member and other Members except *ex officio* Members shall not be eligible for re-appointment.

(9) No person having any commercial interest, direct or indirect, in any broadcasting, advertising or programme producing agency shall be eligible for appointment as a Chairman, Executive Member or Part-time Member."

Amendment
of section 7.

6. In section 7 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman, Executive Member or any Part-time Member from his office if such Chairman, Executive Member or such Part-time Member—

(a) ceases to be a citizen of India; or

(b) is adjudged an insolvent; or

(c) is convicted of any offence involving moral turpitude; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind;

Provided that the President may, by order, remove the Chairman from his office if he engages during his term of office in any paid employment outside the duties of his office.";

(b) in sub-section (4), for the words "any Whole-time Member, except any *ex-officio* Member, the Nominated Member or any elected Member," the words "the Executive Member" shall be substituted.

Amendment
of section 9.

7. In section 9 of the principal Act in sub-section (1), after the words and brackets "the Director-General (Doordarshan)", the words and brackets, "the Executive Director (Finance), the Executive Director (Personnel)" shall be inserted.

Amendment
of section 10.

8. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely,—

"(1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards:

Provided that the Union Public Service Commission shall continue to discharge its functions relating to recruitment of officers and employees of the Corporation which was being discharged immediately before the appointed day till the recruitment Board is constituted for such categories of officers and employees of the Corporation."

9. In section 11 of the principal Act,—

Amendment
of section 11.

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) the provisions of sub-section (1) shall not apply to any of the officers or employees not borne on the cadres of Akashvani and Doordarshan:

Provided that officers from the Indian Information Service, Central Secretariat Service, Central Secretariat Stenographers' Service, Central Secretariat Clerical Service borne on the cadre of the Ministry of Information and Broadcasting, equal in number of their cadre posts borne on the strength of Akashvani and Doordarshan immediately before the appointed day may be absorbed by the Corporation after following such procedure as may be prescribed:

Provided further that the members of Indian Information Service and other services working in Akashvani and Doordarshan immediately before the appointed day and not borne on the cadres of Akashvani and Doordarshan shall be deemed to be on deputation on such terms and conditions and till such time as may be finalised by the Corporation in consultation with the respective cadre controlling authorities.”;

(b) in sub-section (5), the third proviso shall be omitted.

10. In section 12 of the principal Act,—

Amendment
of section 12.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public service broadcasting to inform, educate and entertain the public.”;

(b) in sub-section (2), in clause (n), for the words “broadcast frequencies available”, the words “broadcasting frequencies made available for public service broadcasting” shall be substituted;

(c) in sub-section (3), in clause (c), the words “and to establish procedures for the allocation of such programmes, rights or privileges to the services,” shall be omitted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) In order to achieve its objectives, the Corporation may formulate its own programme and advertisement codes, fix such limits on broadcasting of advertisements as considered necessary to ensure that adequate time is made available for the promotion of the objectives of the Prasar Bharati.

Explanation.—For the removal of doubts, it is hereby declared that the programme and advertisement codes or limits on broadcasting of advertisement shall be in addition to and not in derogation of any programme and advertisement codes or limits on broadcasting of advertisements specified by or under any other law for the time being in force.”;

(e) in sub-section (7),—

(i) the word “service” shall be omitted;

(ii) the proviso shall be omitted.

Omission
of sections
13 to 15.

11. Sections 13 to 15 of the principal Act shall be omitted.

Amend-
ment of
section 16.

12. In section 16 of the principal Act, for clause (a), the following clauses shall be substituted, namely:—

“(a) all property and assets which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on perpetual lease on payment of a nominal fee of rupee one per annum.

(aa) the Non-lapsable Fund which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation.”.

Substitu-
tion of new
section for
section 25.

13. For section 25 of the principal Act, the following section shall be substituted, namely:—

Report to
Parliament
in certain
matters and
recommen-
dations as
to action
against the
Board.

“25. (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the objections, if any, of the Board.

(2) The Central Government after considering the objections, if any, of the Board, may propose to supersede the Board and if it so proposes, shall prepare a report and lay it before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(3) If, before the expiry of the session immediately following the session or the successive sessions referred in sub-section (2), both Houses agree to supersede the Board, the President may by notification supersede the Board for such period not exceeding six months, as may be specified in the notification.

(4) Upon the publication of the notification under sub-section (3),—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act be exercised or discharged by or on behalf of the Board, shall, until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(5) On the expiration of the period of supersession specified in the notification issued under sub-section (3), the President may reconstitute the Board by fresh appointments, and in such a case any person who had vacated his office under clause (a) of sub-section (4) shall not be disqualified for appointment:

(6) The Central Government shall cause the notification issued under sub-section (3) and a full report of the action taken under this section to be laid before each House of Parliament."

14. Section 26 of the principal Act shall be omitted.

Omission of section 26.

15. For sections 27 and 28 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 27 and 28.

"27. The Chairman and every other Member, every officer or other employee of the Corporation and every member of a committee thereof, and every member of a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairman, Members, etc., to be public servants.

45 of 1860.

28. No suit or other legal proceeding shall lie against the corporation, the Chairman or any Member or officer or other employee thereof or a member of a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder."

Protection of action taken in good faith.

16. For section 31 of principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 31.

"31. The Corporation shall prepare once in every year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament."

Annual report.

17. In section 32 of the principal Act, in sub-section (2),—

Amendment of section 32.

(i) in clause (a), for the words, brackets and figures "Whole-time Members under sub-section (7) of section 6", the words, brackets and figures "Executive Member under sub-section (5) of section 6" shall be substituted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

"(b) the allowances payable to and facilities admissible to the Chairman under sub-section (6) of section 6;

(ba) the allowances payable to the Part-time Members under sub-section (7) of section 6;"

(iii) for clause (f), the following clause shall be substituted, namely:—

"(f) the procedure for absorption of officers under sub-section (2) of section 11;"

(iv) clauses (g) and (h) shall be omitted;

(v) clauses (i), (j), (k) and (l) shall be re-lettered as clauses (g), (h), (i) and (j);

(vi) for the clause (i) so re-lettered, the following clause shall be substituted, namely:—

"(i) the form in which, and the time within which, the Corporation shall prepare its annual report under section 31."

Amendment
of section 33.

18. In section 33 of the principal Act, in sub-section (2), clause (h) shall be omitted and clause (i) shall be re-lettered as clause (h).

Repeal and
saving.

19. (1) The Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1997 is hereby repealed.

Ord. 22 of
1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

K.R. NARAYANAN,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.

CORRIGENDUM

In the Representation of the People (Amendment) Ordinance, 1997 (Ord. 23 of 1997) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 23rd December, 1997 (Issue No. 60), at page 2, in line 13, *for* "vided", *read* "provided".